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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,511	10/19/2001	David H. Cook	LET-101	4017

			EXAMINER
28970	7590	06/26/2006	TAYLOR, NICHOLAS R

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ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _07 April 2006_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-13_ is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-13_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _19 October 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All   b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-13 have been presented for examination and are rejected.

Response to Arguments

2.   Applicant's arguments filed April 7th, 2006, with respect to the claims have been

considered but are moot in view of the new grounds of rejection.

Claim Objections

3.   Claim 3 is objected to because of the following typographical error:

"corresponding to a length the break". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b),
> by another filed in the United States before the invention by the applicant for patent or (2) a
> patent granted on an application for patent by another filed in the United States before the
> invention by the applicant for patent, except that an international application filed under the treaty
> defined in section 351(a) shall have the effects for purposes of this subsection of an application
> filed in the United States only if the international application designated the United States and
> was published under Article 21(2) of such treaty in the English language.

5.   Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Eldering

(U.S. Patent 6,615,039).

6.   As per claim 1, Eldering teaches a method for server side insertion of content

into streaming media including the steps of

        providing a streaming server; (Eldering, fig. 6)

        associating an insertion plug-in with the streaming server; (Eldering, col. 8, lines

3-13)

        generating a command which includes indicia for locating content desired by a

user and indicia for locating a source for content to be inserted; and (Eldering, col. 4,

lines 36-57)

        substituting, in response to a signal associated with the content desired by the

user, packets of content to be inserted for packets of the content desired by the user,

and (Eldering, col. 13, lines 19-28; see also col. 9, lines 23-36; col. 8, lines 34-41, where

the default ads are substituted by the new content)

        adjusting the time of at least one packet of content to be inserted to match the

time of at least one substituted packet of content desired by the user, (Eldering, col. 9,

lines 23-36; see also col. 11 42-54 and fig. 9)

        wherein the substituting step is carried out at an edge server (Eldering, col. 5,

lines 27-42).

7.   As per claim 2, Eldering teaches the system further wherein the generated

command further including indicia reflective of the user (Eldering, col. 4, lines 36-57).

8.   As per claim 3, Eldering teaches a method for matching the timing of content

inserted into a data stream with breaks in the data stream comprising

        prefetching the content to be inserted into the data stream, storing the prefetched

content on a local server; (Eldering, col. 7, lines 27-39)

        identifying a starting point for a break in the data stream; (Eldering, col. 13, lines

19-28; see also col. 9, lines 23-36)

        establishing an offset between the starting point of the break and an initial packet

of the prefetched content, the offset being subtracted from a timestamp associated with

the initial packet of the prefetched content; (Eldering, col. 9, lines 23-36; see also col. 11

42-54 and fig. 9)

        removing from the data stream packets corresponding to a length of the break;

inserting the prefetched packets into the data stream to replace the removed packets;

and (Eldering, col. 8, lines 34-41, where the default ads are substituted by the new

content)

        adjusting the time of at least one inserted packet to match the time of at least one

removed packet, (Eldering, col. 9, lines 23-36; see also col. 11 42-54 and fig. 9)

        wherein the establishing and inserting steps are carried out at an edge server

(Eldering, col. 5, lines 27-42).

9.   As per claim 4, Eldering teaches the system further including adjusting the time

of a plurality of inserted packets to match the time of a plurality of removed packets

(Eldering, col. 9, lines 23-36; see also col. 11 42-54 and fig. 9).

10.   As per claim 5, Eldering teaches the system further wherein the data stream is a

live broadcast (Eldering, col. 4, lines 15-29).

11.   As per claim 6, Eldering teaches the system further wherein the data stream is

an on demand broadcast (Eldering, col. 4, lines 15-29).

12.   As per claim 7, Eldering teaches the system further wherein the location of the

content desired by the user is identified by a URL (Eldering, col. 4, lines 15-29).

13.   As per claim 8, Eldering teaches the system further wherein the location of the

content desired by the user is defined by a network address (Eldering, col. 4, lines 15-

29).

Claim Rejections - 35 USC § 103

14.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

15.   Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Eldering (U.S. Patent 6,615,039) and Bhagavath et al. (U.S. Patent 6,505,169).

16.   As per claim 9, Eldering teaches the above, yet fails to teach wherein the location

of the content desired by the user is identified by an XML playlist.

Bhagavath teaches a method for insertion of content into streaming media

(Bhagavath, fig. 6, item 611; col. 4, lines 43-60) on the server side at an edge server

(Bhagavath, col.3, lines 7-27). Bhagavath accomplishes this through a scheduling

engine that receives and parses an XML playlist file (Bhagavath, col. 6, lines 37-43) and

downloads the content associated with the playlist file (Bhagavath, col. 4, lines 43-60;

the process of fig. 6; col. 5, lines 1-33; and col. 6, lines 37-43 wherein the playlist file is

described).

It would have been obvious to one of ordinary skill in the art, at the time the

invention was made, to have combined Eldering and Bhagavath to provide the server

insertion of Bhagavath in the system of Eldering, because doing so would allow

dynamic content insertion based on dynamic comparison of audience size and

composition in order to better tailor ad programs to the actual audience demographics

of streaming broadcasts (Bhagavath, col. 1, lines 5-12 and 57-62).

17.   As per claim 10, Eldering teaches a system for inserting content into streaming

media comprising

a streaming server for receiving content in the form of streaming media and

passing it to a client; an insertion plug-in associated with the streaming server for

redirecting the streaming media and capable of recognizing an impending break in a

media stream, wherein the insertion plugin is located a server side; a source of content

to be inserted proximate to the streaming server; (Eldering, col. 8, lines 3-13; fig. 5 and

6; col. 7, lines 28-39)

a decision server responsive to the impending break in the media stream for

directing the insertion of content from the source of content to be inserted into the media

stream for substantially the duration of the break, wherein data packets of the content

received from the streaming server that corresponds to the length of the break are

removed and are replaced by the content to be inserted; and a schedule engine

providing an interface between the insertion plugin and the decision server for making a

request to the decision server (Eldering, col. 5, lines 27-42; fig. 3; col. 9, lines 23-36;

see also col. 11 42-54 and fig 9; fig. 7).

However, Eldering fails to teach receiving and parsing a playlist file from the

decision server, and downloading content associated with the playlist file.

Bhagavath teaches a method for insertion of content into streaming media

(Bhagavath, fig. 6, item 611; col. 4, lines 43-60) on the server side at an edge server

(Bhagavath, col. 3, lines 7-27). Bhagavath accomplishes this through a scheduling

engine that receives and parses an XML playlist file (Bhagavath, col. 6, lines 37-43) and

downloads the content associated with the playlist file (Bhagavath, col. 4, lines 43-60;

the process of fig. 6; col. 5, lines 1-33; and col. 6, lines 37-43 wherein the playlist file is

described).

It would have been obvious to one of ordinary skill in the art, at the time the

invention was made, to have combined Eldering and Bhagavath to provide the server

insertion of Bhagavath in the system of Eldering, because doing so would allow

dynamic content insertion based on dynamic comparison of audience size and

composition in order to better tailor ad programs to the actual audience demographics

of streaming broadcasts (Bhagavath, col. 1, lines 5-12 and 57-62).

18.   As per claim 11, Eldering-Bhagavath teaches the system further including a

counter for identifying the number of times a universe of users sees a particular item of

inserted content (Bhagavath, col. 5, lines 13-19).

19.   As per claim 12, Eldering-Bhagavath teaches the system further wherein the

playlist file contains at least one of a local pre-recorded file, an advertisement, and a

next request that are different types of items to be played (Bhagavath, col. 6, lines 37-

43).

20.   As per claim 13, Eldering teaches the above, yet fails to teach wherein the

substituting is based on a playlist file on the streaming server determined by a decision

server.

        Bhagavath teaches a method for insertion of content into streaming media

(Bhagavath, fig. 6, item 611; col. 4, lines 43-60) on the server side at an edge server

(Bhagavath, col. 3, lines 7-27). Bhagavath accomplishes this through a scheduling

engine that receives and parses an XML playlist file (Bhagavath, col. 6, lines 37-43) and

downloads the content associated with the playlist file (Bhagavath, col. 4, lines 43-60;

the process of fig. 6; col. 5, lines 1-33; and col. 6, lines 37-43 wherein the playlist file is described).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Eldering and Bhagavath to provide the server insertion of Bhagavath in the system of Eldering, because doing so would allow dynamic content insertion based on dynamic comparison of audience size and composition in order to better tailor ad programs to the actual audience demographics of streaming broadcasts (Bhagavath, col. 1, lines 5-12 and 57-62).

Conclusion

21.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas Taylor
Examiner
Art Unit 2141

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER